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To: Microsoft ATR
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Subject: Microsoft Anti-trust Decision

As a student in the Master of Engineering Program at the Massachusetts Institute of Technology, I would like to comment on the Proposed Final Judgement.

While the spirit of the ruling, which is to prevent anti-competitive practices by Microsoft, is admirable, the letter of the ruling leaves many loopholes that Microsoft will be able to exploit that will allow it to continue to stifle competition. Specifically:

The definition of the term "API" used in the ruling is extremely narrow - it only refers to the interfaces between Microsoft Middleware products and the OS. This would allow Microsoft to refuse to disclose many interfaces that developers will need to write applications that use Windows. The definition of API used in the ruling should be altered to say, "'Application Programming Interfaces (APIs)' means the interfaces, including any associated callback interfaces, that Popular Windows Applications running or being installed on a Windows Operating System Product use to call upon that Windows Operating System Products in order to obtain services from that Windows Operating System Product."

The term "Windows Operating System Product" is also too narrowly defined. It does not include any of the Microsoft Operating systems that are targetted towards use on laptop computers or PDA's, such as Microsoft Windows CE. These operating systems should also be included in the settlement.

The ruling does not contain language that prevents Microsoft from intentionally designing its products to be incompatible with other operating systems.

The ruling allows Microsoft to retaliate against OEMs that ship PCs which use an OS other than Windows. Given the current popularity of Windows and other Microsoft products, no OEM can afford to risk a cutoff of Microsoft products in retaliation for using competing products. This is a barrier to competition.

The ruling requires Microsoft to license Windows at uniform terms and published prices to the top 20 OEMs, but does not put any restrictions on its licensing to smaller OEMs. These smaller OEMs are the companies most likely to experiment with other operating systems.

Section III.B. allows Microsoft to offer unspecified Market Development Allowances to OEMs. For instance, Microsoft could offer

discounts on Windows to OEMs based on the number of copies of Microsoft Office or Pocket PC systems sold by that OEM. In effect, this allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.